

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

JONATHAN SMITH,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 4:15CV500 DDN
	)	
DEAN MINOR,	)	
	)	
Respondent.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on petitioner's application for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition is successive and shall be summarily denied and dismissed.

Rule 4 of the Rules Governing § 2254 Cases in the United States District Courts provides that a district court shall summarily dismiss a § 2254 petition if it plainly appears that the petitioner is not entitled to relief.

On November 20, 2012, petitioner pled guilty to unlawful possession of a firearm, unlawful use of drug paraphernalia, and possession of heroin. *See Smith v. Missouri*, No. 1322-CC00095 (22<sup>nd</sup> Judicial Cir., Order dated September 9, 2013). The court sentenced petitioner to two concurrent terms of five years' imprisonment. Petitioner did not file a direct appeal. Petitioner filed a motion for post-conviction relief, in which he alleged that trial counsel was ineffective for failing to file a motion to suppress evidence found in his locked safe. The motion court denied relief on September 9, 2013, finding that petitioner consented to the search and that he waived any Fourth Amendment claim when he pled guilty. Petitioner did not appeal.

However, petitioner filed a petition for writ of habeas corpus with the Missouri Supreme Court on August 12, 2013, which was denied on October 29, 2013. *See Ex. Rel. Smith v. Missouri*, No. SC93611 (Mo. 2013). Petitioner filed a second petition with the Missouri Supreme Court on November 25, 2014. This petition was also denied, on February 3, 2015. *See Ex. Rel Smith-El v. Norman*, No. SC94621 (Mo. 2015).

On October 2, 2013, petitioner filed a petition for writ of habeas corpus in this Court which was denied and dismissed as non-cognizable. *See Smith v. Minor*, No.4:13CV1987 DDN (E.D.Mo. October 10, 2013). Petitioner did not appeal of the denial of his application for writ.

To the extent that petitioner seeks to relitigate claims that he brought in his original petition, those claims must be denied pursuant to 28 U.S.C. § 2244(b)(1). To the extent that petitioner seeks to bring new claims for habeas relief, petitioner must obtain leave from the United States Court of Appeals for the Eighth Circuit before he can bring those claims in this Court. 28 U.S.C. § 2244(b)(3)(A). Petitioner has not been granted leave to file a successive habeas petition in this Court. As a result, the petition shall be dismissed.

Accordingly,

**IT IS HEREBY ORDERED** that petitioner's application for writ of habeas corpus is **DENIED** and **DISMISSED** as **SUCCESSIVE**.

**IT IS FURTHER ORDERED** that no certificate of appealability shall issue.

Dated this 8<sup>th</sup> day of April, 2015.

/s/ Jean Hamilton  
JEAN C. HAMILTON  
UNITED STATES DISTRICT JUDGE